

INFORMATION NEEDED TO BEGIN THE SECTION 106 REVIEW PROCESS
(Updated as of October 26, 2004)

A review process for actions proposed to taken by, funded, permitted, or licensed by a Federal agency is mandated by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f) and is spelled out in regulations of the Advisory Council on Historic Preservation at 36 C.F.R. Part 800). To begin the Section 106 review process, an official of the Federal agency must establish whether there is an undertaking that has the potential to affect historic properties and, if so, identify properties (buildings, structures, objects, sites, or districts) that are either listed in the National Register of Historic Places or eligible for listing. Under many of the funding programs of the U.S. Department of Housing and Urban Development ("H.U.D."), by Federal law a state or local government (often referred to as the "Responsible Entity") has been delegated the environmental responsibilities that H.U.D. otherwise would have to fulfill. In such cases, the appropriate official of the Responsible Entity is the Federal agency official for Section 106 purposes. The Federal agency may authorize its applicant for funding or licensing or a consultant to begin the Section 106 process with the State Historic Preservation Officer (or "SHPO"), but formal findings and determinations must be made by the Federal agency.

The Section 106 process, as governed by 36 C.F.R. Part 800, typically has up to five steps:

- Step 1: Initiate the Section 106 process
- Step 2: Identify historic properties
- Step 3: Assess adverse effects
- Step 4: Resolve adverse effects
- Step 5: Implement any agreement reached to resolve adverse effects

Because the process is designed to be followed systematically, it is generally not advisable to try to cover all of the steps in the initial submission. However, it is usually reasonable and productive to deal with Step 1 and much of Step 2 in the initial submission to the SHPO. The list below identifies the kinds of information and materials that we recommend the Federal agency or its authorized applicant or consultant mail or deliver to the SHPO at the following address:

State Historic Preservation Officer
Indiana Department of Natural Resources
Division of Historic Preservation and Archaeology
402 West Washington Street, Room W274
Indianapolis, Indiana 46204-2739
telephone number 317-232-1646

website: <http://www.in.gov/dnr/historic/106.html>

The SHPO or his staff at the DHPA will notify Federal agency or its authorized applicant or consultant if basic elements needed in the submission for SHPO review are missing. The SHPO will attempt to send such notifications within 30 days after receipt of the submission.

CHECKLIST: INITIAL ITEMS TO BE SUBMITTED TO THE SHPO FOR THE SECTION 106 REVIEW

Step 1: Initiate the Section 106 process

The initial letter to the SHPO should include as much as possible of the following information about the undertaking:

- ___A) The formal name of the undertaking (if any) or a short-hand characterization of the undertaking (e.g., the Rehabilitation of the Smalltown School for Senior Housing or the Metropolis Downtown Streetscape Project).
- ___B) The name, mailing address, and other contact information for the Federal agency (or Responsible Entity) or for the State agency that is being asked to provide funding, to issue a license or permit, or otherwise to approve the undertaking.

- ___C) The Federal or State funding, licensing, or permitting program or programs (e.g., Community Development Block Grant, Transportation Enhancement, State Revolving Fund, Section 404 Permit, or Construction in a Floodway Permit) from which either financial assistance or approval will be sought for this undertaking.
- ___D) The name, mailing address, and other contact information for the applicant for Federal funding or a license or permit, if the Federal agency is not conducting the undertaking by itself.
- ___E) If the Federal agency (or Responsible Entity) wishes to authorize its applicant or its applicant's agent (e.g., a grant administrator, an attorney, or an architectural, engineering, environmental, or historic preservation consultant) to initiate the Section 106 process with the SHPO, then provide a copy of a letter or other written evidence of that authorization to the SHPO. Keep in mind that *only* the Federal agency (or Responsible Entity) has the authority to make formal determinations (e.g., the boundaries of the area of potential effects or the eligibility of properties for the National Register of Historic Places) or findings (e.g., "no historic properties affected," "no adverse effect," or "adverse effect").
- ___F) Name the consulting parties (i.e., those local governments, local historical or historic preservation organizations, county historians, neighborhood associations, adjoining landowners, and the like, whom the Federal agency or its applicant have reason to believe might have an economic, legal, or historic preservation interest in the undertaking and whom the Federal agency or its applicant have invited or intend to invite to participate in the Section 106 process.
- ___G) A written description of the location of the undertaking (i.e., street or road; address, if any; city or town—or township, if in a rural area; and county).
- ___H) If possible, a detailed scope of work for the undertaking, or if such detail is not yet available, then as complete a description as possible of all major elements of the undertaking (e.g., excavation, filling, grading, paving, partial or total demolition of a building or structure, new construction, construction of an addition, remodeling, or moving).

Step 2: Identify historic properties

The initial letter also should include as much as possible of the following kinds of information:

Determine the scope of identification

- ___A) Propose the area or areas of potential effects (i.e., the geographic area or areas within which an undertaking may cause changes in the use or character of historic properties, if any such properties exist; this includes effects that are direct or indirect, cumulative, later in time, or at a distance); and provide a map or a good quality photocopy of a map containing the following:
 - i) The boundaries of the area of potential effects clearly outlined in dark ink (highlighter and pencil do not photocopy well) on the a copy of the relevant portion of a town, city, county, or U.S. Geological Survey quadrangle map.
 - ii) The precise location of the project area (i.e., the area where work will take place and where materials may be stockpiled or heavy equipment parked when not in use) within the boundaries of the area of potential effects clearly identified in dark ink (highlighter and pencil do not photocopy well). *Please note, the precise location of the project area is not the same thing as the area of potential effects.*
 - iii) The names of nearby landmarks clearly labeled (e.g., major streets, roads, highways, railroads, rivers, lakes).

Evaluate historic properties

- ___B) If possible, using the same map, show the precise location of any buildings, structures, objects, sites (other than archaeological sites), and districts or parts of districts within the area of potential effects (e.g., addresses and a site map with properties keyed to it) that may be affected by the project;
- ___C) Gather and organize documentation on the history and possible significance of buildings, structures, and objects within the area of potential effects including the following: known or approximate dates of original construction; a description of any known modifications to individual buildings, structures, objects, sites, and districts; associations with significant events or persons, and any other historical information known about the properties, within the area of potential effects that might shed light on their significance.
- ___D) Describe the existing condition of any vacant land within the project area; in particular, state whether or not the ground is known to have been disturbed by construction, excavation, grading, or filling, and, if so, indicate the part or parts of the project area that have been disturbed; agricultural tilling generally does not have a sufficiently severe impact on archaeological sites to constitute a disturbance of the ground for this purpose.
- ___E) Document the sources checked (e.g., correspondence, bibliographical citations [e.g., title, author, page number], or copies of relevant materials obtained from oral history interviews, sample field investigations, field surveys, background research, consultation with a county historian, a local historical or historic preservation organization, or reference materials such as the interim report of a local historic sites and structures inventory);
- ___F) Provide recent, clear photographs or good quality computer-generated images (not photocopies), keyed to a site plan, showing the exterior (and interior, if feasible) of any buildings, structures, objects, districts, or sites (excluding archaeological sites, whose location should not be disclosed to the public) that could be affected in any way (such as by demolition, rehabilitation, expansion, taking of right-of-way, or visual modification or obscuration) by the project;

Depending on the nature of the undertaking and the kinds of properties it could affect, the SHPO may request additional information, such as the report of an archaeological investigation of a parcel of land. However, it is advisable to wait until the SHPO has commented on the initial submission of information before expending additional time and funds on preparing such information.

If no historic properties are found within the area of potential effects, or if there clearly will be no effect on any historic properties that have been identified, then the Federal agency could issue a finding of “no historic properties affected” and provide the SHPO with documentation of the basis of that finding, provided that it or its authorized applicant or consultant has consulted about those issues with the SHPO. However, it generally is not advisable to provide such a finding from the Federal agency within the initial submission, because the process requires that the Federal agency consult with the SHPO before making determinations and findings--absent an agreement with the SHPO to conduct the process in an expedited manner--and because the SHPO may have information or opinions on the significance of properties or the undertaking’s effect on them that the Federal agency may not have.

Similarly, the SHPO might request additional information about the effect of the undertaking on an historic property or about the feasibility of avoiding or minimizing an adverse effect (e.g., a structural report on a building to be demolished or photographs of work areas and detailed plans and specifications of proposed rehabilitation work). This information usually need not be provided in the initial submission to the SHPO, however.

For more information on the Section 106 process refer to the Federal regulations at 36 C.F.R. Part 800, which are available on the Internet at www.achp.gov.